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(27)

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**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 19  
PTH

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re The Delta Queen Steamboat Company

*Sams*  
*July 11*

Serial No. 74/403,014

Charles C. Garvey of Pravel, Hewitt, Kimball & Krieger for  
The Delta Queen Steamboat Company.

Lalitha Mani, Senior Trademark Examining Attorney, Law  
Office 106 (Mary I. Sparrow, Managing Attorney.)

Before Cissel, Hanak and Hairston, Administrative Trademark  
Judges.

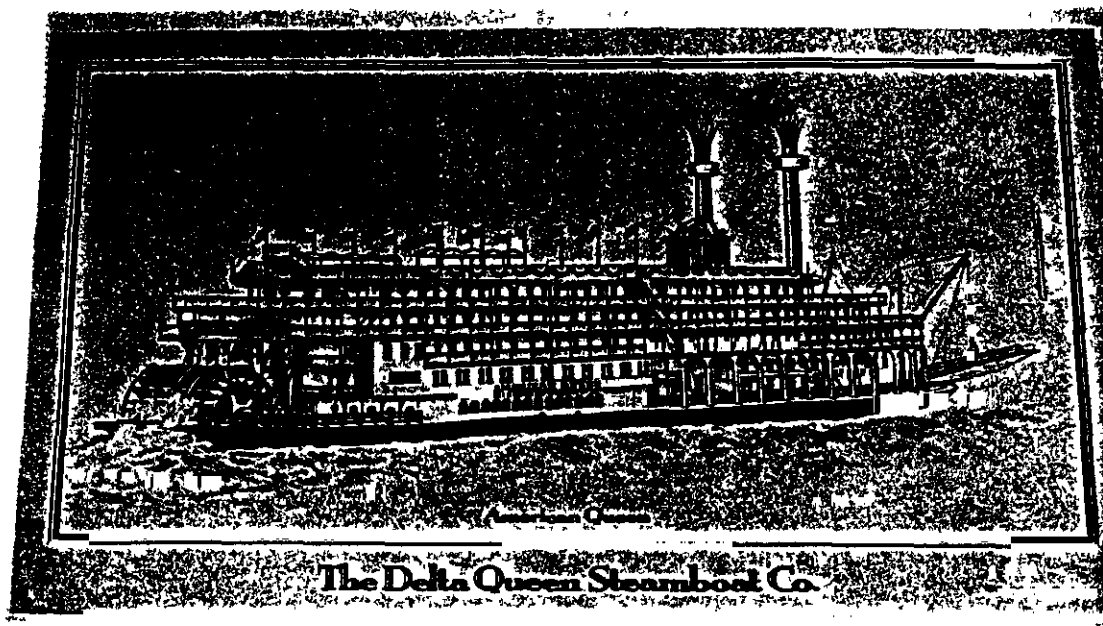
Opinion by Hairston, Administrative Trademark Judge.

On June 15, 1993 The Delta Queen Steamboat Company  
filed an intent-to-use application to register the term  
AMERICAN QUEEN for "art prints."<sup>1</sup> After the notice of  
allowance issued, applicant timely filed, on September 28,  
1995, a statement of use. Included as specimens were three  
photographs of an art print, with the term AMERICAN QUEEN

<sup>1</sup> Application Serial No. 74/403,014.

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appearing thereon, as shown below:



This case is on appeal from the Senior Trademark Examining Attorney's final requirement that applicant submit substitute specimens. It is essentially the Examining Attorney's position that the current specimens do not evidence use of AMERICAN QUEEN as a trademark for art prints.

Applicant and the Examining Attorney have submitted briefs, but no oral hearing was requested.

We affirm.

The Examining Attorney maintains that prospective purchasers will not view the term sought to be registered as

an indication of origin, given the manner in which it is used on applicant's art prints. According to the Examining Attorney, prospective purchasers would perceive AMERICAN QUEEN as the title of the art prints, inasmuch as it is also the name of the steamboat featured in the prints

Applicant, on the other hand, argues that:

The specimens, showing the mark as used on the specified goods (art prints), are respectfully submitted to be acceptable evidence of use of the trademark. While the submitted specimens are art prints showing a boat named "American Queen", the trademark can also be used on other art prints, such as a print displaying a view of a river.  
(Brief, p. 1)

To be clear, the Examining Attorney's objection is not to the specimens themselves, but rather that the specimens do not show trademark use of the matter sought to be registered. After careful review of the arguments, we agree with the Examining Attorney that the term AMERICAN QUEEN is used on the specimens of record to identify the title of applicant's art prints, as well as the name of the steamboat pictured thereon, and that it would be so perceived by the public.

In the first place, the term AMERICAN QUEEN appears beneath the drawing of the steamboat, near the bottom center of the art prints. It is typical for the title of an art print to appear in this location. Second, below the term AMERICAN QUEEN appears applicant's name, The Delta Queen

Steamboat Co., which we believe purchasers are likely to regard as the indication of the origin of the prints. Finally, the impression that AMERICAN QUEEN is the title of the art prints is reinforced by the fact that American Queen is the name of the steamboat depicted in the prints. We note in this regard that American Queen appears on the stern and on the side of the steamboat. In sum, we find that purchasers and prospective purchasers of applicant's art prints would be likely to view the term AMERICAN QUEEN, as it is used on the goods, as the title or the subject matter of the prints. Stated differently, as presented on the specimens of record, AMERICAN QUEEN would not be perceived as a trademark identifying and distinguishing applicant's goods.

Finally, applicant argues that AMERICAN QUEEN "can also be used on other art prints, such as a print displaying a view of a river." It is not inconceivable that the term AMERICAN QUEEN could be used as a trademark for art prints. That is precisely why the Examining Attorney requested substitute specimens. However, AMERICAN QUEEN is not used as a trademark on the specimens of record.

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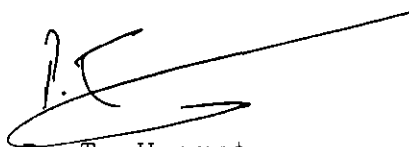
**Decision:** The requirement for substitute specimens is affirmed.



R. F. Cissel



E. W. Hanak



P. T. Hairston  
Administrative Trademark  
Judges, Trademark Trial and  
Appeal Board